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13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16  
17 TASH HEPTING, et al.,  
18 Plaintiffs,  
19 vs.  
20 AT&T CORP., et al.,  
21 Defendants.

No. C-06-0672-VRW

**NOTICE OF REASSIGNMENT IN  
CONNECTION WITH  
ADMINISTRATIVE MOTION OF  
DEFENDANT AT&T CORP. TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED**

[N.D. Cal. Civ. L.R. 3-12, 7-11]

22  
23 TOM CAMPBELL, et al.,  
24 Plaintiffs,  
25 vs.  
26 AT&T COMMUNICATIONS OF  
CALIFORNIA, et al.,  
27 Defendants.  
28

No. C-06-3596-VRW

1 Yesterday, defendant **AT&T CORP.** (“AT&T”) filed an Administrative Motion to  
2 Consider Whether Cases Should Be Related (“AT&T’s Motion to Relate”) (Dkt. 208).  
3 That motion, made pursuant to Civil Local Rules 3-12 and 7-11, asks the Court to relate  
4 *Campbell, et al. v. AT&T Communications of California, et al.*, No. C-06-3596-VRW, to  
5 this case (*Hepting*).

6 AT&T’s Motion to Relate made reference to a third case: *Riordan, et al. v. Verizon*  
7 *Communications, Inc.*, No. C-06-3574-JSW, removed on June 5, 2006.<sup>1</sup> The motion noted  
8 that plaintiffs’ counsel in *Campbell* (who also are plaintiffs’ counsel in *Riordan*) had filed  
9 an administrative motion to consider whether *Campbell* should be related to *Riordan*. It  
10 also stated that *Riordan* was pending before Magistrate Judge Laporte. *Riordan* Dkt. 3.  
11 Plaintiffs, however, had declined to proceed before a magistrate judge. *Riordan* Dkt. 6.  
12 Today, the Clerk issued a notice indicating that *Riordan* has been reassigned to the  
13 Hon. Jeffrey S. White. *Riordan* Dkt. 9. Hence this notice of reassignment.

14 The reassignment of *Riordan* does not change the analysis set forth in AT&T’s  
15 Motion to Relate. By their Motion to Relate, the *Campbell* plaintiffs seek to have their case  
16 heard by a different court than the one presiding over *Campbell*, namely, this Court. For  
17 the reasons stated in AT&T’s Motion to Relate, their proposal makes no sense. The most  
18 sensible course of action – indeed, the one dictated by Civil Local Rule 3-12 – would be to  
19 relate the *Campbell* case to the *Hepting* case, and have both proceed before this Court,  
20 which is the most familiar with the legal issues and facts presented in both actions. (For the  
21 same reason, it may also be prudent to relate *Riordan* itself to *Hepting* or *Campbell*.  
22 Because AT&T and its affiliates are not defendants in *Riordan*, AT&T takes no position on  
23 the matter.)

24  
25 \_\_\_\_\_  
26 <sup>1</sup> Dkt. 208 referred to that case as *DeBonis, et al. v. Verizon Communications, Inc., et al.*,  
27 because DeBonis was the first name on the version of the complaint posted on the website  
28 of plaintiffs’ counsel. We have since learned that the version of the complaint plaintiffs  
filed manually with the Clerk lists Dennis Riordan as the first named plaintiff. Hence we  
now refer to the case as *Riordan*.

One other development merits mention. Late today plaintiffs’ counsel in *Hepting* filed an administrative motion seeking to have the Electronic Frontier Foundation (“EFF”) designated “interim class counsel” (*see* Fed. R. Civ. P. 23(g)(2)(A)). *Hepting* Dkts. 213-15. This motion (to which AT&T will respond in due course) would, if granted, give EFF power to control the positions taken by plaintiffs in *Hepting* and in *Roe* and also in all other “actions later instituted in, removed to, or transferred to this Court that involve the same or substantially similar issues of law and fact . . . .” Proposed Order, *Hepting* Dkt. 215, at 1:16-18. EFF is somewhat circumspect about whether it should take control of *Campbell* and *Riordan*, deeming that question “premature” (*see Hepting* Dkt. 213, at 4 n.2), but EFF argues that *Campbell* and *Riordan* “center around the factual allegations first revealed publicly in the *USA Today* article,” which EFF describes as “focus[ing] on the second of the two factual components of the *Hepting* case . . . .” (*id.* at 2:1-3, 4:8-11). Whatever else might be said about EFF’s arguments, they certainly support the notion that *Campbell* and *Riordan* should be related to *Hepting* and *Roe*.

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